

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 ARTHUR BARNES,

4 Plaintiff,

5 vs.

6 SPIRIT AEROSYSTEMS INC.,

7 Defendant.
8

Case No.: 2:24-cv-00485-GMN-DJA

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

9 Pending before the Court is the Report and Recommendation (“R&R”) by Magistrate
10 Judge Albregts, (ECF No. 10), recommending that Plaintiff’s case be dismissed without
11 prejudice for failure to correct an incomplete *in forma pauperis* (“IFP”) application. Plaintiff
12 Arthur Barnes filed an Objection, (ECF No. 12). Also pending before the Court is the Motion
13 under Rule 60(B)(4)/Rule 201, (ECF No. 2), filed by Plaintiff. Finally, pending before the
14 Court is the Motion under Rule 60(B)(4), (ECF No. 3), filed by Plaintiff. For the reasons
15 discussed below, the Court **ADOPTS IN FULL** Magistrate Judge Albregts’ R&R and
16 **DENIES as MOOT** Plaintiff’s other pending Motions.

17 A party may file specific written objections to the findings and recommendations of a
18 United States Magistrate Judge made pursuant to Local Rule IB 1-4. 28 U.S.C. § 636(b)(1)(B);
19 D. Nev. R. IB 3-2. Upon the filing of such objections, the Court must make a *de novo*
20 determination of those portions to which objections are made. *Id.* The Court may accept, reject,
21 or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge.
22 28 U.S.C. § 636(b)(1); D. Nev. R. IB 3-2(b).

23 Magistrate Judge Albregts filed an R&R, (ECF No. 10), recommending that this case be
24 dismissed without prejudice and that Plaintiff’s pending Motions, (ECF Nos. 2, 3), be denied.
25 (*See generally* R&R, ECF No. 10). On March 20, 2024, Magistrate Judge Albregts noted that

1 Plaintiff had filed initiating documents and two motions for relief under Federal Rule of Civil
2 Procedure 60(b)(4) without paying the filing fee or submitting an application to proceed *in*
3 *forma pauperis*. (See generally Order, ECF No. 4). The Magistrate Judge thus ordered Plaintiff
4 to pay the filing fee or submit an application to proceed *in forma pauperis* on or before April
5 19, 2024. (*Id.*). Plaintiff submitted an application, (ECF No. 6), on April 5, 2024, but that
6 application was incomplete and the Magistrate Judge denied it. Magistrate Judge Albregts gave
7 Plaintiff until May 20, 2024, to file a complete application, warning him that “[f]ailure to
8 timely comply with this order may result in a recommendation to the district judge that this
9 case be dismissed.” (See Order 3:3–6, ECF No. 7). That date passed and Plaintiff did not file a
10 complete IFP application which resulted in Magistrate Judge Albregts recommending that this
11 case be dismissed. Plaintiff filed an Objection but did not respond to the Magistrate Judge’s
12 finding that the IFP application was incomplete. Instead, Plaintiff only explained his failure to
13 update his address on the docket. (See generally Objection, ECF No. 12). After reviewing the
14 record, the Court agrees with Judge Albregts’ R&R. Thus, the R&R is **ADOPTED IN FULL**.

15 Accordingly,

16 **IT IS HEREBY ORDERED** that the R&R, (ECF No. 10), is **ACCEPTED AND**
17 **ADOPTED IN FULL**.

18 **IT IS FURTHER ORDERED** that this case is **DISMISSED** without prejudice. The
19 Clerk of Court is kindly directed to close the case and mail a copy of this Order to Plaintiff.

20 **IT IS FURTHER ORDERED** that all other pending motions are **DENIED AS**
21 **MOOT**.

22 **DATED** this 23 day of January, 2025.

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Gloria M. Navarro, District Judge
United States District Court